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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/862,946	05/22/2001	Nicolas Marie Pierre Godinot	IFF-17	9741

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EXAMINER

OUELLETTE, JONATHAN P

ART UNIT	PAPER NUMBER
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3629

DATE MAILED: 08/01/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Applicant No.

09/862,946

Applicant(s)

PIERRE GODINOT ET AL

Examiner

Jonathan Ouellette

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 21 April 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-6 and 13-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6 and 13-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Amendment***

1. Claims 7-12 have been cancelled and Claims 13-18 have been added; therefore Claims 1-6 and 13-18 are now pending in application 09/862,946.

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1 and 13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
3. The phrase "from about 4 to about 6" in claims 1 and 13 is a relative phrase which renders the claim indefinite. The phrase "from about 4 to about 6" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. The specification also contains no scientific backing or proof that the described range of "about 4 to about 6" attributes has any effect on the outcome/product of the claimed invention.
4. Claims 2-6 and 14-18 are rejected as they are dependent on a rejected Claims 1 and 13.

*Claim Rejections - 35 USC § 103*

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:
  - (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.
6. Claims 1-6 and 13-18 are rejected under 35 U.S.C. 103(a) as being obvious over Reading Scientific Services Ltd.
7. As per independent Claim 1, RSSL discloses a method for visually presenting the taste attributes of a sample comprising: (a) providing a subject; (b) providing the subject with a sensory perception scale for taste on a computing device using a plurality of attributes selected from the group consisting of sweetness, saltiness (salty), bitterness, sourness, mintiness, coolness, grittiness, burning, biting, tingling, bad after taste, and metallic; said sensory perception scale having variable positions; (c) providing the subject with a test sample and requesting said subject to sample the test sample; (d) asking the subject to rate from about 4 to about 6 attributes of the samples selected from the group consisting of sweetness, saltiness, bitterness, sourness, mintiness, coolness, grittiness, burning, biting, tingling, bad after taste, and metallic; by manipulating the positions of the perception scale; and (e) providing the position of the variable position scale to a computing means, said computing means providing a simultaneous visual interpretation on a screen of the attributes of the sample (line scale and spider map) (Darrington, Hugh, "Extra sensory perception." Food Manufacture, v65, n8, p51(2), October 1990).

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8. RSSL fails to expressly disclose wherein the computer device contains a plurality of attributes in which to rate the sample.
9. However, RSSL does that the panel (subject) discusses how they will vocabularies their evaluation before each sample is tested, and it would have been obvious to one of ordinary skill I the art at the time the invention was made to incorporate a list of set attributes for the subject to pick from for the advantage of standardizing and increasing the efficiency of the evaluation process.
10. As per Claims 2-3 and 14-15, RSSL fails to distinctly disclose wherein the visual interpretation of the attributes of the sample is provided as a pie chart / single bar chart.
11. However, RSSL does teach a visual interpretation of the attributes of the sample as part of a multi-axis chart / spider map (Darrington, Hugh, "Extra sensory perception." Food Manufacture, v65, n8, p51(2), October 1990).
12. Official Notice is taken that the use of pie charts / single bar charts were well known at the time the invention was made for the benefit of visually displaying data for better comprehension and analysis. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have included wherein the visual interpretation of the attributes of the sample is provided as a pie chart / single bar chart, in the system disclosed by RSSL, for the advantage of providing a method for visually presenting the attributes of a sensory perception, with the ability to present the data in several chart formats in order to more clearly relay the information to the customer.

13. As per Claims 4-5 and 16-17, RSSL discloses wherein the relative value of each attribute is provided by a unique color (Darrington, Hugh, "Extra sensory perception." Food Manufacture, v65, n8, p51(2), October 1990).
14. As per Claims 6 and 18, RSSL discloses wherein the visual interpretation of the attributes of the sample is generated without having the subject perform any mathematical computation (Darrington, Hugh, "Extra sensory perception." Food Manufacture, v65, n8, p51(2), October 1990).
15. As per independent Claim 13, RSSL discloses a method for visually presenting the olfactory (smell) attributes of a sample comprising: (a) providing a subject; (b) providing the subject with a sensory perception scale for olfaction on a computing device *using* (see rejection for independent Claim 1) a plurality of attributes; (c) providing the subject with a test sample and requesting said subject to sample the test sample; (d) asking the subject to rate from about 4 to about 6 attributes of the samples; and (e) providing the position of the variable position scale to a computing means, said computing means providing a simultaneous visual interpretation on a screen of the attributes of the sample (Darrington, Hugh, "Extra sensory perception." Food Manufacture, v65, n8, p51(2), October 1990).
16. RSSL fails to expressly disclose a computing device containing a plurality of attributes selected from the group consisting of citrus, floral fruity, woody spicy leathery, herbaceous, musk, amber, and oriental; said sensory perception scale having variable positions.

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17. However, RSSL does teach the sensory evaluation of products to include aroma (smell) (Darrington, Hugh, "Extra sensory perception." Food Manufacture, v65, n8, p51(2), October 1990).
18. Official Notice is taken that citrus, floral fruity, woody spicy leathery, herbaceous, musk, amber, and oriental were well known as adjectives used to describe aromas/smells at the time the invention was made. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to specify the type of aroma as citrus, floral fruity, woody spicy leathery, herbaceous, musk, amber, or oriental, in the system disclosed by RSSL for the advantage of providing a method for visually presenting the olfactory (smell) attributes of a sample with the ability to categorize the aromas by commonly distinct characteristics.

***Response to Arguments***

19. Applicant's arguments filed 4/21/03, with respect to Claims 1-6, have been considered but are moot in view of the new ground(s) of rejection.
20. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).
21. A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not

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mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

*Conclusion*

22. Additional Non-Patent Literature has been referenced on the attached PTO-892 form, and the Examiner suggests the applicant review these documents before submitting any amendments.
23. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jonathan Ouellette whose telephone number is (703) 605-0662. The examiner can normally be reached on Monday through Thursday, 8am - 5:00pm.
24. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on (703) 308-2702. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-7687 for regular communications and (703) 305-3597 for After Final communications.
25. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 306-5484.



THOMAS A. DIXON  
PRIMARY EXAMINER